



## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

#### 7 CFR Part 3560

[Docket No. RHS-22-MFH-0020]

#### Multi-Family Housing Simple Transfer Pilot Program

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Notification of pilot program.

**SUMMARY:** The Rural Housing Service (RHS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is announcing the implementation of a pilot program for simple transfers of USDA Section 515 Rural Rental Housing properties. The Agency's intention is to evaluate the existing regulations and remove regulatory barriers to reduce application requirements for certain types of transfers, resulting in lower transaction-related costs for applicants and improved processing times.

**DATES:** The effective date of the Simple Transfer Pilot Program is [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The duration of the pilot program is anticipated to continue until December 9, 2024, at which time the RHS may extend the pilot program (with or without modifications) or terminate it depending on the workload and resources needed to administer the program, feedback from the public, and the effectiveness of the program. If the pilot program is extended or terminated, the RHS will notify the public.

**FOR FURTHER INFORMATION CONTACT:** For general information about the pilot program, contact Stephanie Vergin, MFH Production and Preservation Division at [stephanie.vergin@usda.gov](mailto:stephanie.vergin@usda.gov) or David Willis, Asset Management Division at [david.willis2@usda.gov](mailto:david.willis2@usda.gov). Owners that are interested in participating in the pilot program should contact the project's assigned servicing specialist in the Field Operations Division. The assigned specialist can be found on the Agency's website at

<https://www.sc.egov.usda.gov/data/MFH.html>. Select the file under the heading Multifamily Housing 514 & 515 Property Assignments. The servicing specialist is listed in the column labeled “Assigned To” and their email is in the column “Assigned To Email.”

## **SUPPLEMENTARY INFORMATION:**

### **Authority:**

Title V, Section 506(b) of the Housing Act of 1949, as amended; 42 U.S.C. Section 1476(b).

### **Background**

RHS is committed to helping improve the economy and quality of life in rural areas by offering a variety of programs such as loans, grants, and loan guarantees to help create jobs, expand economic development, and provide critical infrastructure investments. RHS also provides technical assistance, loans, and grants by partnering with agricultural producers, cooperatives, Indian tribes, non-profits, and other local, state, and federal agencies.

The Multi-family Housing Program (MFH), an RHS program, assists rural property owners through loans, loan guarantees, and grants that enable owners to develop and rehabilitate properties for low-income, elderly, and disabled individuals and families as well as domestic farm laborers. MFH works with the owners of its direct and farm labor housing loan properties to subsidize rents for low-income tenants who cannot afford to pay their full rent. These programs assist qualified applicants that cannot obtain commercial credit on terms that will allow them to charge rents that are affordable to low-income tenants.

### **Transfer Types: Simple and Standard Transfers**

MFH utilizes a variety of tools to revitalize and preserve the physical and financial health of more than 13,000 properties currently in USDA’s rural rental portfolio. The Agency may authorize limited demonstration programs to test new approaches to offering housing under the statutory authority granted to the Secretary, as set forth in 42 U.S.C. 1476(b) and 7 CFR 3560.53(t). Such demonstration programs may authorize procedures and requirements that differ

from those set forth in statute or regulation. However, any program requirements that are not expressly waived, whether statutory or regulatory, remain in effect.

There are two primary types of ownership changes that require approval by MFH which are (1) a change in the borrower entity's organizational structure or (2) a transfer of ownership to a new entity. Organizational changes that include changes in a borrower's current ownership entity structure are addressed in 42 USC 1485(h) and 7 CFR 3560.405. Transfers, which are sales of projects to new owners that continue to operate the projects in the 515 program, are detailed in 42 USC 1485(h) and 7 CFR 3560.406.

MFH has identified the need to simplify the transfer of ownership for certain types of transactions. The current process places the same submission requirements on applicants regardless of the complexity of the transaction, resulting in undue burdens for relatively uncomplicated transfers, thereby reducing potential transfer and preservation activity in the portfolio. To address this issue, MFH is implementing the Simple Transfer Pilot Program which will offer three additional transfer options as a way to encourage preservation and revitalize its portfolio. MFH expects that by reducing application requirements for certain types of transfers, the result will be lower transaction-related costs for applicants and improved processing times. At the end of the pilot program, MFH will evaluate the findings with consideration towards, if successful, future regulatory changes that could be codified into 7 CFR part 3560 and applied program wide.

### **Discussion of the New Transfer Pilot Program**

(1) *Simple Transfer Pilot Program*: For a simple transfer, under certain conditions the Agency will process an application for an ownership change without requiring full rehabilitation financing and/or reserve account funding typically needed to approve a standard transfer. Simple transfers include restrictions on new debt, equity payouts, and other limitations that are not included for standard transfers.

The Agency must determine that the new owner can operate the property successfully and that the ownership change will benefit the government and tenants even if there are remaining rehabilitation needs post-transfer. The property must meet the required conditions to be processed as a simple transfer. The Asset Management Division (AMD) will process simple transfers.

(2) *Standard Transfer*: All transfers that do not meet the requirements for a simple transfer are considered standard transfers. Standard transfers often include third-party financing, such as Low-Income Housing Tax Credits (LIHTC), and may include one property or multiple properties in a portfolio. Standard transfers follow the guidance in 7 CFR 3560.406. The Production and Preservation Division (P2) will continue to process standard transfers.

#### *Implementation of the Simple Transfer Pilot Program*

Eligibility for the pilot program will be based on property conditions and the ability and willingness of the buyer and seller to meet required simple transfer conditions. Buyers must meet the eligibility criteria in 7 CFR 3560.406. Applicants must be able to clearly demonstrate that the property can operate successfully under new ownership. Applicants must abide by the regulatory requirements set forth in 7 CFR part 3560 and the requirements set forth in applicable statutes, except for the exceptions made available through this pilot program, as detailed in this Notice.

Under the pilot program, three simple transfer options are available to address different property circumstances, which are outlined below:

#### Option 1: Simple Transfer with Expedited Ownership Change Required

Option 1 is the most streamlined transfer process. It is available in circumstances where the Agency determines that an expedited ownership change is in the best interest of the Government, property, and tenants.

#### *(1) Requirements:*

(i) Property is in acceptable physical condition as determined by the Agency based on information submitted by the applicant, available in Agency files, or available from third parties, AND

(ii) Conditions exist that require an expedited transfer, including but not limited to: deceased borrower or general partner, hardship, insolvency, receivership, imminent loan maturity, or sale to nonprofit under prepayment., AND

(iii) No additional debt will be incurred by the Buyer or secured by the property as part of the transfer, AND

(iv) New owner (nonprofit or for-profit) will provide a plan for the long-term viability of the property, which may include recapitalization/rehabilitation or resetting of reserves. The Agency must determine that the proposed viability plan demonstrates the continued physical and financial viability of the property.

*(2) Pilot Program Modification to current Standard Transfer Requirements in 7 CFR 3560:*

(i) No Capital Needs Assessment (CNA) is required with the transfer application (the CNA requirement in 7 CFR 3560.406(d)(5) is waived for transfers qualifying for Option 1).

(ii) No new valuation of the property is required with the transfer application (the requirement in 7 CFR 3560.406(d)(3)(i) and (ii) that the security value of the housing project be determined at the time of transfer is waived for transfers qualifying for Option 1).

(iii) The maturity date and amortization period of the loan will not be changed or extended.

(iv) No equity payout can be included as part of the transaction. Equity payout to transferor shall not be paid for by project funds and shall not be secured by the property. If agreed to by both parties, equity may be paid outside of the transaction.

(v) The project must meet minimum reserve account requirements as determined by the Agency. The Agency may require a post-transfer analysis to reset annual reserve deposits as a

condition of the approved viability plan, which could include completion of a property conditions survey, a CNA, or another analysis acceptable to the Agency.

Option 2: Simple Transfer with Rehabilitation

Option 2 is designed for properties that require rehabilitation and/or resetting of the annual deposit to the reserve account.

*(1) Requirements:*

(i) Property is or will be fully subsidized post-transfer OR rents can be increased without adversely impacting occupancy and without a term extension, AND

(ii) No additional amortizing debt will be incurred by the Buyer or secured by the property as part of the transfer, AND

(iii) One of the following conditions applies:

(a) Based on a CNA, rehabilitation is needed now that cannot be funded by the current reserve account, OR

(b) Property is in acceptable condition, with only minor upfront rehabilitation or repairs needed, as determined by the Agency based on information submitted by the applicant, available in Agency files, or available from third parties. Reserves are sufficient to meet any upfront rehabilitation needs but are inadequate to address future rehabilitation needs, OR

(c) Property requires upfront rehabilitation that cannot be funded by the current reserve account, as well as resetting of reserve balances to adequately address future rehabilitation needs.

*(2) Pilot Program Modification to current Standard Transfer Requirements in 7 CFR 3560:*

(i) No new valuation of the property is required with the transfer application (the requirement in 7 CFR 3560.406(d)(3)(i) and (ii) that the security value of the housing project be determined at the time of transfer is waived for transfers qualifying for Option 2).

(ii) The Agency may approve a junior lien for deferred financing as provided in 3560.409, except that: (a) deferred financing must at a minimum be coterminous with the

Agency's loan(s), and (b) the Agency may set a maximum per unit limit on rehabilitation that can be approved under Option 2.

(iii) The maturity date and amortization period of the loan will not be changed or extended, except that a term extension may be permitted in accordance with 7 CFR 3560.409(j) if required by the deferred lender to preserve affordability for a longer period.

(iv) No equity payout can be included as part of the transaction. Equity payout to transferor shall not be paid for by project funds and shall not be secured by the property. If agreed to by both parties, equity may be paid outside of the transaction.

### Option 3: Simple Transfer with Future Rehabilitation/Recapitalization Plan

Option 3 provides flexibility to nonprofits and government agencies to complete an acquisition of a preservation-worthy property even if resources for rehabilitation of the property are not available at the time of the transfer. An appraisal and CNA are required as part of the transfer application.

#### *(1) Requirements*

(i) Based on a CNA, rehabilitation is needed that cannot be fully funded by the current reserve account or resetting of the existing reserve deposits, AND

(ii) The purchaser is a nonprofit organization or government agency, AND

(iii) The new nonprofit or government agency owner will pursue a strategy to rehabilitate/recapitalize the property with Agency and/or third-party funds within two years of the transfer closing date. The Agency must determine that the recapitalization plan will meet the physical and financial needs of the property the new owner is likely to obtain the Agency and/or third-party funds, and the property can function successfully until rehabilitation/recapitalization is complete.

*(2) Pilot Program Modification to current Standard Transfer Requirements in 7 CFR 3560:*

(i) The Agency will waive the necessary reserve requirement adjustment under 7 CFR 3560.406(d)(5). The new owner must address the rehabilitation needs identified in the CNA over a period not to exceed two years after the closing date of the transfer. RD must approve the new owner's proposed rehabilitation plan and the new owner's plan to obtain funding for the rehabilitation prior to approval of the transfer.

(ii) The Agency will monitor the progress and implementation of the approved plan as part of routine project servicing. The new owner may propose changes to the approved plan; however, RD must authorize in writing any changes before they are implemented.

For all simple transfer options, health, safety, environmental, civil rights, and applicable accessibility requirements must be resolved at the time of transfer. The property must be rated "performing" in the internal risk rating tool unless an exception is approved by the Agency.

In cases where MFH determines that none of the simple transfer options are viable for a project, the property owner should follow the standard transfer requirements in 7 CFR 3560.406. The Agency may also determine that other servicing actions are more appropriate based on the property's circumstances.

Standard transfer requirements have not changed and are outlined in 7 CFR 3560.406 (<https://ecfr.federalregister.gov/current/title-7/subtitle-B/chapter-XXXV/part-3560/subpart-I/section-3560.406>) and are available on the Agency's website at: <https://www.rd.usda.gov/sites/default/files/3560-3chapter07.pdf>.

For simple transfers, a checklist and other information have been developed and are available by: (1) going to the MFH website at <https://www.rd.usda.gov/programs-services/multifamily-housing-programs/multifamily-housing-direct-loans> (click on the To Apply tab), (2) contacting the assigned servicing specialist, which can be found at USDA Service Center Agencies Online Services; or (3) refer to the **FOR FURTHER INFORMATION CONTACT** section in this Notice.

### **Transfer Processing Steps**



A property owner should contact the assigned Field Operations Division (FOD) servicing specialist if interested in a transfer under the pilot program. The FOD servicing specialist will meet with the owner to discuss their goals for the transfer, timelines, prospective buyer(s), possible funding sources, etc. The specialist will review options with the borrower, including prepayment (if applicable), and determine if other servicing actions are needed. If a simple transfer appears possible and the owner is interested, FOD will refer the customer to the Servicing Support Branch in AMD for a consultation. AMD will review simple transfer options with the prospective buyer and seller, along with the streamlined revised checklist. If a standard transfer appears to be the best option, FOD will refer the owner to the appropriate Processing and Report Review Branch in P2 for a consultation.

### **Paperwork Reduction Act**

The regulatory waivers for this pilot contain no new reporting or recordkeeping burdens under OMB control number 0575-0179 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

### **Non-Discrimination Statement**

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language) should contact the responsible

Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720-2600 (voice and TTY); or the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

- (1) Mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or
- (2) Fax: (833) 256-1665 or (202) 690-7442; or
- (3) Email: [Program.Intake@usda.gov](mailto:Program.Intake@usda.gov).

**Joaquin Altoro,**

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